

## **REMARKS**

The issues outstanding in the Office Action dated November 28, 2006, are the rejection under 35 U.S.C. §101, §112, §102 and §103. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

### **REJECTIONS UNDER 35 U.S.C. §101 and §112**

Claim 16 has been rejected under 35 U.S.C. §101 and §112, in view of the non-standard format. In view of the rewriting of claims 17-20 in a manner for normal for U.S. practice, claim 16 is redundant and has thus been canceled. The scope of the claims, either literally or for purposes of the doctrine of equivalents, has not been affected by these amendments. Withdrawal of the rejections is therefore respectfully requested.

### **REJECTION UNDER 35 U.S.C. §102**

Claims 1-19 have been rejected under 35 U.S.C. §102 over Hornung et al. (either U.S. application 2003/0091756 or U.S. patent number 6,759,103). Reconsideration of this rejection is respectfully requested.

As is evident from formula I of Hornung, the 5-membered ring of the fused structure in all compounds disclosed is unsubstituted. Consequently, these disclosures do not anticipate the presently claimed compounds in which ring B is substituted by at least one fluorine atom. Withdrawal of this rejection is accordingly respectfully requested. It is moreover respectfully submitted that one of ordinary skill in the art lacks the requisite motivation to provide fluorine substitution on the 5-membered ring of the reference, in view of absolutely no suggestion therein to do so.

### **REJECTIONS UNDER 35 U.S.C. §103**

Claim 20 has been rejected under 35 U.S.C. §103 over Hornung as above taken with Heckmeier et al. Reconsideration of this rejection is also respectfully requested. Heckmeier is cited solely for its disclosure of an electro-optical modulation element, and does not remedy the deficiency discussed above in connection with Hornung. Accordingly, withdrawal of this rejection is also respectfully requested.

The claims of the application are submitted to be in condition for allowance. However if the examiner has any questions or comments, he is cordially invited to telephone

the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Harry B. Shubin/

Harry B. Shubin, Reg. No. 32,004  
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-2972

Date: April 30, 2007